

§ 240.10b-13

17 CFR Ch. II (4-1-03 Edition)

provided, however, that brokers or dealers that do not receive payment for order flow have no disclosure obligation under this paragraph.

(2) *Transitional provision.*

(i) Broker-dealers are not required to comply with paragraph (e)(1)(iii) of this section until June 1, 2003, *Provided* that, if, notwithstanding the absence of the disclosure required in that paragraph, the broker-dealer receives a written request from a customer for the information described in paragraph (e)(1)(iii) of this section, the broker-dealer must make the information available to the customer; and

(ii) Broker-dealers are not required to comply with paragraph (e)(1)(iv) of this section until June 1, 2003.

(f) The Commission may exempt any broker or dealer from the requirements of paragraphs (a) and (b) of this section with regard to specific transactions of specific classes of transactions for which the broker or dealer will provide alternative procedures to effect the purposes of this section; any such exemption may be granted subject to compliance with such alternative procedures and upon such other stated terms and conditions as the Commission may impose.

[43 FR 47503, Oct. 16, 1978, as amended at 48 FR 17585, Apr. 25, 1983; 50 FR 37654, Sept. 17, 1985; 53 FR 40721, Oct. 18, 1988; 59 FR 55012, Nov. 2, 1994; 59 FR 59620, Nov. 17, 1994; 59 FR 60555, Nov. 25, 1994; 67 FR 58312, Sept. 13, 2002]

§ 240.10b-13 [Reserved]

§ 240.10b-16 Disclosure of credit terms in margin transactions.

(a) It shall be unlawful for any broker or dealer to extend credit, directly or indirectly, to any customer in connection with any securities transaction unless such broker or dealer has established procedures to assure that each customer:

(1) Is given or sent at the time of opening the account, a written statement or statements disclosing (i) the conditions under which an interest charge will be imposed; (ii) the annual rate or rates of interest that can be imposed; (iii) the method of computing interest; (iv) if rates of interest are subject to change without prior notice, the specific conditions under which

they can be changed; (v) the method of determining the debit balance or balances on which interest is to be charged and whether credit is to be given for credit balances in cash accounts; (vi) what other charges resulting from the extension of credit, if any, will be made and under what conditions; and (vii) the nature of any interest or lien retained by the broker or dealer in the security or other property held as collateral and the conditions under which additional collateral can be required: *Provided, however*, That the requirements of this subparagraph will be met in any case where the account is opened by telephone if the information required to be disclosed is orally communicated to the customer at that time and the required written statement or statements are sent to the customer immediately thereafter: *And provided, further*, That in the case of customers to whom credit is already being extended on the effective date of this section, the written statement or statements required hereunder must be given or sent to said customers within 90 days after the effective date of this section; and

(2) Is given or sent a written statement or statements, at least quarterly, for each account in which credit was extended, disclosing (i) the balance at the beginning of the period; the date, amount and a brief description of each debit and credit entered during such period; the closing balance; and, if interest is charged for a period different from the period covered by the statement, the balance as of the last day of the interest period; (ii) the total interest charge for the period during which interest is charged (or, if interest is charged separately for separate accounts, the total interest charge for each such account), itemized to show the dates on which the interest period began and ended; the annual rate or rates of interest charged and the interest charge for each such different annual rate of interest; and either each different debit balance on which an interest calculation was based or the average debit balance for the interest period, except that if an average debit balance is used, a separate average debit balance must be disclosed for each interest rate applied; and (iii) all

other charges resulting from the extension of credit in that account: *Provided, however,* That if the interest charge disclosed on a statement is for a period different from the period covered by the statement, there must be printed on the statement appropriate language to the effect that it should be retained for use in conjunction with the next statement containing the remainder of the required information: *And provided further,* That in the case of "equity funding programs" registered under the Securities Act of 1933, the requirements of this paragraph will be met if the broker or dealer furnishes to the customer, within 1 month after each extension of credit, a written statement or statements containing the information required to be disclosed under this paragraph.

(b) It shall be unlawful for any broker or dealer to make any changes in the terms and conditions under which credit charges will be made (as described in the initial statement made under paragraph (a) of this section), unless the customer shall have been given not less than thirty (30) days written notice of such changes, except that no such prior notice shall be necessary where such changes are required by law: *Provided, however,* That if any change for which prior notice would otherwise be required under this paragraph results in a lower interest charge to the customer than would have been imposed before the change, notice of such change may be given within a reasonable time after the effective date of the change.

(15 U.S.C. 78j)

[34 FR 19718, Dec. 16, 1969]

§ 240.10b-17 Untimely announcements of record dates.

(a) It shall constitute a "manipulative or deceptive device or contrivance" as used in section 10(b) of the Act for any issuer of a class of securities publicly traded by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange to fail to give notice in accordance with paragraph (b) of this section of the following actions relating to such class of securities:

(1) A dividend or other distribution in cash or in kind, except an ordinary interest payment on a debt security, but including a dividend or distribution of any security of the same or another issuer;

(2) A stock split or reverse split; or

(3) A rights or other subscription offering.

(b) Notice shall be deemed to have been given in accordance with this section only if:

(1) Given to the National Association of Securities Dealers, Inc., no later than 10 days prior to the record date involved or, in case of a rights subscription or other offering if such 10 days advance notice is not practical, on or before the record date and in no event later than the effective date of the registration statement to which the offering relates, and such notice includes:

(i) Title of the security to which the declaration relates;

(ii) Date of declaration;

(iii) Date of record for determining holders entitled to receive the dividend or other distribution or to participate in the stock or reverse split;

(iv) Date of payment or distribution or, in the case of a stock or reverse split or rights or other subscription offering, the date of delivery;

(v) For a dividend or other distribution including a stock or reverse split or rights or other subscription offering:

(a) In cash, the amount of cash to be paid or distributed per share, except if exact per share cash distributions cannot be given because of existing conversion rights which may be exercised during the notice period and which may affect the per share cash distribution, then a reasonable approximation of the per share distribution may be provided so long as the actual per share distribution is subsequently provided on the record date,

(b) In the same security, the amount of the security outstanding immediately prior to and immediately following the dividend or distribution and the rate of the dividend or distribution,

(c) In any other security of the same issuer, the amount to be paid or distributed and the rate of the dividend or distribution,